

Introduced by Senators Perata, Burton, and ChesbroFebruary 20, 2004

An act to add Section 128 to the Government Code, relating to sovereign immunity.

LEGISLATIVE COUNSEL'S DIGEST

SB 1760, as introduced, Perata. Sovereign immunity: waiver: Americans with Disabilities Act of 1990.

Pursuant to the Eleventh Amendment to the United States Constitution, a state under certain circumstances may be immune to suit under federal laws without its consent.

No provision of existing state law expressly provides for consent by the state to suit under the federal Americans with Disabilities Act of 1990.

This bill would expressly provide that the state consents to be sued in state or federal court by any person seeking to enforce rights or obtain remedies afforded by the federal act, and would prohibit any public agency, as defined, from asserting immunity against those suits.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 128 is added to the Government Code,
2 to read:
3 128. (a) The State of California consents to be sued in state
4 or federal court by any person seeking to enforce rights or obtain
5 remedies afforded by the Americans with Disabilities Act of 1990
6 (42 U.S.C. Sec. 12101 et seq.), and its implementing regulations.



1 (b) In any action brought pursuant to the federal law described
2 in subdivision (a), no immunity from suit may be asserted by any
3 public agency pursuant to the Eleventh Amendment to the United
4 States Constitution, and any immunity is hereby waived.

5 (c) For purposes of this section, “public agency” means the
6 state, its agencies, officers, and employees, and its political
7 subdivisions, including, but not limited to, charter cities, and
8 instrumentalities.

